

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

**SCHNITZER STEEL INDUSTRIES,
INC., et al.,**

Plaintiffs,

v.

**CONTINENTAL CASUALTY
COMPANY, et al.,**

Defendants.

No. 3:10-cv-01174-PK

OPINION AND ORDER

MOSMAN, J.,

On March 9, 2012, Magistrate Judge Papak issued his Findings and Recommendation (“F&R”) [124] in the above-captioned case, recommending that plaintiff’s motion for partial summary judgment [67] be granted in part and denied in part. Judge Papak also recommended that plaintiff’s motion for leave to supplement the evidentiary record [118] be denied and defendants’ motion for partial summary judgment be denied [70]. Lastly, Judge Papak recommended that plaintiff’s motion to compel [84] be granted in part. Defendants filed objections [131] and plaintiffs responded [133]. Defendants also filed a motion to strike [134] plaintiffs’ response to the objections.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge,

but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Papak's recommendation, except as regards Plaintiff's motion for partial summary judgment [67]. Except as noted, I ADOPT the conclusions of the F&R [124] as my own opinion. Plaintiff's motion for partial summary judgment [67] is DENIED in entirety because resolution of the issues raised is premature. Plaintiff's motion for leave to supplement the evidentiary record [118] is DENIED. Defendants' motion for partial summary judgment [70] is DENIED. Plaintiff's motion to compel [84] is GRANTED IN PART. Additionally, defendants' motion to strike [134] plaintiffs' response to the objections is DENIED.

IT IS SO ORDERED.

DATED this 5th day of September, 2012.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court